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PASSED July 23, 2010

PROPOSED: (Delete EXISTING Chapter 127)

## Chapter 127, SANITATION

### ARTICLE I

#### Fees for Collection of Solid Waste

§ 127-1. Definitions.

**DWELLING, SINGLE-FAMILY** -- A building constructed for occupancy as a single-family residence.

**PERSON** -- Includes firms, companies, corporations, partnerships, associations or any organization entity as well as individuals.

**SUITABLE PROTECTION** -- a means or device to enclose trash containers which will also prevent the containers, lids and their contents from being blown about by the wind. Suitable protection shall be constructed to permit easy access to the enclosed trash containers for trash removal by the collector and shall be no higher than 30 inches above the surrounding ground level where top access only is provided. If higher than 30 inches, an appropriate side or back shall be open or readily opened to permit access to each container and such container shall be readily accessible from the street.

**TOWN COUNCIL DESIGNEE** -- member of the Fenwick Island Police Department or Town of Fenwick Island employee.

**TRASH** -- Includes garbage, rubbish, yard waste, construction debris, recyclables and/or any other foreign waste.

§ 127-2. Annual service fee.

Property owners of single-family dwellings in the Residential Zone and property owners of single-family dwellings in the Commercial Zone in the Town of Fenwick Island, Delaware, shall be assessed an annual service fee for the collection of garbage, **recyclables, yard waste** and trash by the Town of Fenwick Island. Owners of properties in the Commercial Zone used for purposes other than single-family dwellings shall engage the services of private garbage, **recyclables, yard waste** and trash removal companies for the removal of such items in accordance with the rules and regulations set forth below in Article II, Handling and Disposition of Solid Waste.

§ 127-3. Determination of fee.

The annual service fee for single-family dwellings shall be determined by Town Council as a budget item annually.

§ 127-4. Rendering and payment of fee.

For property owners of single-family dwellings, the notice, rendering and payment of the annual service fees for the collection of garbage, **recyclables, yard waste** and trash shall be in the same manner as is prescribed for the notice, rendering the payment of the Town property tax, pursuant to Section 24 of the Town Charter. The proration of the annual fee, if any, shall be determined in accordance with the procedures for the proration of taxes on new buildings as set forth in Chapter 146, Taxation, Article I, Reassessment.

§ 127-5. Delinquent fees.

For property owners of single-family dwellings, the procedure for the collection of any delinquent annual service fee for the collection of garbage, **recyclables, yard waste** and trash shall be the same as prescribed for the collection of a delinquent property tax, pursuant to the provisions of the Town Charter.

## **ARTICLE II**

### **Handling and Disposition of Solid Waste**

§ 127-6. Garbage on public or private property prohibited.

**It shall be unlawful for any person to place trash, yard waste, construction debris or any other foreign waste on any public or private property within the Town of Fenwick Island except as provided in §61-15A and §127-7 hereof.**

§ 127-7. Regulations for handling and disposition of **trash**.

A. Concerning the handling and disposition **of trash in the Residential Zone, the following rules and regulations shall apply:**

1. The owner or occupier of any given property shall place all trash into containers and place the containers along the curb in front of such property in order that the trash may be conveniently removed by the collector thereof.
2. All bramble, sticks, tree trimmings and the like shall be securely tied together in bundles, each of which shall not exceed 50 pounds in weight or four feet in length.
3. All trash shall be placed in covered plastic or metal containers, not to exceed 32 gallons in size or 50 pounds in weight when filled, and shall be watertight to prevent leakage and covered to exclude water.
4. Unless suitable protection is provided by a container bin, all containers shall be placed along the front property line no earlier than 12:00 noon the day prior to collection and removed no later than 8:00p.m. on the day trash has been collected.
5. No person shall dispose of any **garbage, recyclables, yard waste ,trash or litter** of any kind by throwing or placing it upon any property within the confines of the Town or within a distance of one mile of the Town limits.
6. No person shall put or place any **garbage, recyclables, yard waste and trash** collected or gathered from one property upon or in front of any other property or within the Town without the express consent and permission of the owner of such other property to do so.

7. All public waste containers placed by the Town of Fenwick Island shall be used by the general public for the disposal of trash accumulated while using the public areas of the Town. These containers shall not be used for disposal of residential and/or commercial trash.

B. **Concerning the handling and disposition of trash in the Commercial Zone, the following rules and regulations shall apply:**

1. Any business which continuously uses more than five containers of trash, rubbish or garbage shall be required to place its **garbage, recyclables, yard waste and trash** in a one- or two-ton dumpster provided by the owner. All dumpsters shall have tight-fitting lids which shall be kept closed except when filling or emptying and shall be watertight to prevent leakage. All dumpsters shall be situated on a paved area at least of equal size as the dumpster and shall not be less than 10 feet from any neighboring or adjacent property line.

2. All businesses should have trash removed as often as necessary to comply with Subsection **B3(a) and B3(b)** of this section.

3. The following maintenance requirements must be met:

(a) The owner and/or tenant of any property shall maintain **trash containers** of all kinds in a well repaired, clean, odorless condition so that these containers shall not in any way be offensive or injurious to the health of the residents of the Town of Fenwick Island. The owner and/or tenant of any property shall maintain the area where **trash containers** and dumpsters are placed in a clean, odorless and sanitary condition so that this area shall not be offensive by odor or injurious to the health of the residents of the Town of Fenwick Island or kept in an unsightly condition or in a condition which is detrimental to the adjacent properties and the general neighborhood.

(b) **A Town Council designee** shall have discretion in determining when there exists an unsanitary condition of either the containers or the area where the containers are placed so that the containers and container area are not injurious to the health of the residents of the Town of Fenwick Island, cause an unsightly condition or become detrimental to the adjacent properties and the general neighborhood.

(c) After making such a determination, a **Town Council designee** shall give written notice of the violation to the owner **and/or tenant** of the property on which the condition exists. The notice shall set a time limit for correction, removal or abatement of the condition, which period shall not exceed five days. Said notice may be served by the **Police Department or a Town employee**, or it may be served by registered or certified mail.

(d) The owner **and/or tenant** of the property shall be guilty of failing to correct, remove or abate an unsanitary condition that may be injurious to health, unsightly or detrimental to the adjacent properties or general neighborhood if the condition continues to exist on or after the removal or abatement date that is set on the written notice.

§ 127-8. Violations and penalties

Any person violating any provision of this Article shall, upon conviction thereof, **be subject to a fine of \$200**. It shall be determined that each day that an unsanitary or injurious to health condition or a condition which is unsightly or detrimental to the adjacent properties or general neighborhood exists after the date set for correction of the condition shall constitute a separate offense.

**ARTICLE III**

## General Provisions

### § 127-9. Unsanitary conditions prohibited.

- A. It shall be unlawful to pump, drain, pour or throw in or on the streets, alleys, ditches, underdrains, water, lagoons, bay or private property within the Town of Fenwick Island, Delaware, any sewage, slops, filth, unclean water or other liquids that are unsanitary or injurious to the health of the residents of said Town. All water removed from a pool, hot tub or spa shall be deposited in a sanitary sewer system.
- B. After proper notice is provided, it shall be unlawful to fail to correct or eliminate any unsanitary or health condition deemed injurious to the residents of the Town of Fenwick Island.

### § 127-10. Determination of unsanitary condition and notice of violation.

- A. The **Town Council designee** shall have discretion in determining where there exists a condition that may be unsanitary, or in any way injurious to the health of the residents of the Town of Fenwick Island
- B. After making such a determination, the **Town Council designee** shall give written notice of the violation to the owner, occupier of the structure home, building, vehicle or other object or another person appearing to be causing such condition. The notice shall set a time limit for the correction, removal or abatement of the condition, which period shall not exceed 15 days.
- C. Said notice may be served by Police Department or a Town employee, or it may be served by way of registered or certified mail.

### § 127-11. Violations and penalties.

- A. A person shall be guilty of failing to correct, remove or abate any violation of this ordinance if such violation continues to exist on or after the date set for removal in the given notice. The notice given under this Article shall expire one year from the date set for correction, removal or abatement.
- B. **Upon conviction for failure to correct, remove or abate an unsanitary or injurious to health condition, the guilty party shall be fined \$200 for each offense. It shall be determined that each day that the condition exists after the date set for correction, removal or abatement shall constitute a separate offense, thereby permitting the imposition of a fine for each day of the continuing offense.**